

PROPOSED CHANGES UNDER THE
CALIFORNIA FINANCE LENDERS LAW
CALIFORNIA RESIDENTIAL MORTGAGE LENDING ACT
DATED: OCTOBER 20, 2015

1. Adopt Section 1422.3 to read:

§ 1422.3. Certain Consumer Lenders and Brokers Not Exempt from Licensure.

(a) A nondepository lender or broker that engages in the business of making or brokering consumer loans in this state is not exempt from licensure under subdivision (a) of section 22050 of the Financial Code unless that nondepository lender or broker is a bank, trust company, savings and loan association, insurance premium finance agency, credit union, small business investment company, community advantage lender, California business and industrial development corporation when acting under federal law or other state authority, or a licensed pawnbroker when acting under the authority of that license.

(b) For purposes of this section, nondepository “lender or broker” means a finance lender as defined in section 22009 of the Financial Code or a broker as defined in section 22004 of the Financial Code, and the finance lender or broker is also (1) a bank holding company or subsidiary of a bank holding company, as defined in chapter 17 of title 12 of the United States Code (commencing with section 1841), (2) a savings and loan holding company or a subsidiary of a savings and loan holding company, as defined in section 10 of the Home Owners' Loan Act (12 U.S.C. § 1467a), or (3) a subsidiary of a bank, trust company, savings association or credit union, where the terms “bank,” “trust company,” “savings association” and “credit union” have the definitions ascribed to such terms in chapter 1 of division 1 of the Financial Code, and the term “subsidiary” means a subsidiary as defined in title 10, section 10.170 of the California Code of Regulations. For avoidance of doubt, the term “bank” includes a national bank, as such term is defined in section 189 of the Financial Code, and the

term “savings association” includes a federal savings association or federal savings bank that is chartered under section 5 of the Home Owners’ Loan Act (12 U.S.C. § 1464).

(c) This section shall become operative 180 days after the effective date of this section.

Note: Authority cited: Section 22150, Financial Code. Reference: Sections 22004, 22009, 22050, and 22100, Financial Code.

2. Adopt Section 1950.122.4.2 to read:

§ 1950.122.4.2. Certain Residential Mortgage Lenders and Servicers Not Exempt from Licensure.

(a) A nondepository lender or servicer that engages in the business of mortgage lending or servicing in this state is not exempt from licensure under subdivision (c)(1), (2), or (3) of section 50002 of the Financial Code unless that nondepository lender or servicer is a bank, trust company, insurance company, or industrial loan company doing business under the authority of, or in accordance with, a license, certificate or charter as provided in subdivision (c)(1) of Financial Code section 50002; a federally chartered savings and loan association, federal savings bank, or federal credit union that is authorized to transact business in this state; or a savings and loan association, savings bank, or credit union organized under the law of this or any other state that is authorized to transact business in this state.

(b) For purposes of this section, nondepository “lender or servicer” means a lender as defined in subdivision (m) of section 50003 of the Financial Code or a mortgage servicer as defined in subdivision (q) of section 50003 of the Financial Code, and the lender or mortgage servicer is also (1) a bank holding company or subsidiary of

a bank holding company, as defined in chapter 17 of title 12 of the United States Code (commencing with section 1841), (2) a savings and loan holding company or a subsidiary of a savings and loan holding company, as defined in section 10 of the Home Owners' Loan Act (12 U.S.C. § 1467a), or (3) a subsidiary of a bank, trust company, savings association or credit union, where the terms "bank," "trust company," "savings association" and "credit union" have the definitions ascribed to such terms in chapter 1 of division 1 of the Financial Code, and the term "subsidiary" means a subsidiary as defined in title 10, section 10.170 of the California Code of Regulations. For avoidance of doubt, the term "bank" includes a national bank, as such term is defined in section 189 of the Financial Code, and the term "savings association" includes a federal savings association or federal savings bank that is chartered under section 5 of the Home Owners' Loan Act (12 U.S.C. § 1464).

(c) This section shall become operative 180 days after the effective date of this section.

Note: Authority cited: Section 50304, Financial Code. Reference: Sections 50002 and 50003, Financial Code.